

SUSTAINABILITY INSTITUTE, ET AL v. TRUMP

2:25-CV-02152-RMG

## EXHIBIT D

**OFFICE OF MISSION SUPPORT**

WASHINGTON, D.C. 20460

March 28, 2025

**MEMORANDUM**

**SUBJECT:** Termination of EPA Assistance Agreement 5B- 03D03424-0 under 2 CFR 200.340

**FROM:** EPA Award Official

**TO:** Kerstan Ryan, Philanthropy Director  
Cleanaire North Carolina

The purpose of this communication is to notify you that the U.S. Environmental Protection Agency (EPA) is hereby terminating Assistance Agreement No. 5B-03D03424-0 awarded to Cleanaire North Carolina. This EPA Assistance Agreement is terminated in its entirety effective immediately on the grounds that the award no longer effectuates the program goals or agency priorities. The objectives of the award are no longer consistent with EPA funding priorities.

The EPA Administrator has determined that, per the Agency's obligations to the constitutional and statutory law of the United States, this priority includes ensuring that the Agency's grants do not conflict with the Agency's policy of prioritizing merit, fairness, and excellence in performing our statutory functions. In addition to complying with the law, it is vital that the Agency assess whether all grant payments are free from fraud, abuse, waste, and duplication, as well as to assess whether current grants are in the best interests of the United States.

The grant specified above provides funding for programs that promote initiatives that conflict with the Agency's policy of prioritizing merit, fairness, and excellence in performing our statutory functions; that are not free from fraud, abuse, waste, or duplication; or that otherwise fail to serve the best interests of the United States. The grant is inconsistent with, and no longer effectuates, Agency priorities.

The process for closeout is generally outlined in 2 CFR 200.344. EPA is clarifying what reports are required and what reports are waived below. Other requirements are still in effect if applicable to your grant.

EPA is requiring the following closeout reports due within 120 days of closeout (2 CFR 200.344a):

- Final Federal Financial Report, SF-425
- Final Technical Report
- Other programmatic reports identified in your terms and conditions

As part of this termination, EPA is waiving the following closeout reports:

- Property Report, SF-428
- Final Minority Business Enterprise/Woman Business Enterprise Utilization Under Federal Grants and Cooperative Agreements, EPA Form 5700-52A

The recipient may request payment from the Automated Standard Application Payments (ASAP) system for allowable costs incurred up to the date of this memo provided that such costs were contained in the approved workplan. Costs incurred by you after this termination are allowable only if (a) those costs were properly incurred by you before the effective date of this termination, and not in anticipation of it; and (b) those costs would be allowable if your federal award was not suspended or expired normally at the end of the period of performance in which the termination takes effect. *See* 2 C.F.R. § 200.343. You are encouraged to carefully review and discharge your closeout responsibilities set forth in 2 C.F.R. § 200.344-45 and your award agreement. Those responsibilities include, but are not limited to, your obligation to “promptly refund any unobligated funds” that have been paid out but “are not authorized to be retained.” *See* 2 C.F.R. § 200.344(g).

Also, per 2 CFR 200.472, a recipient may use grant funds to properly closeout their grant including reasonable and necessary costs that might occur after the date of this memo. If the recipient drew down funds from ASAP for costs beyond the termination date or for costs that exceed the amount necessary to properly closeout their grant, the recipient must contact RTPFC at [rtpfc-grants@epa.gov](mailto:rtpfc-grants@epa.gov) for instructions on how to return the excess funds.

The EPA Grants Management Office has issued an amendment to the agreement to document the termination.


If you wish to dispute this termination decision, the Disputes Decision Official (DDO), [Mcomber.Kevin@epa.gov](mailto:Mcomber.Kevin@epa.gov), must receive the Dispute no later than 30 calendar days from the date this termination notice is electronically sent to you. Disputes must be sent electronically by email to the DDO, with a copy to the EPA Award Official, [shelmon.shantel@epa.gov](mailto:shelmon.shantel@epa.gov) within the 30-day period stated above. The Dispute submitted to the DDO must include: (1) A copy of the disputed Agency Decision; (2) A detailed statement of the specific legal and factual grounds for the Dispute, including copies of any supporting documents; (3) The specific remedy or relief you seek under the Dispute; and (4) The name and contact information, including email address, of your designated point of contact for the Dispute. *See* 2 CFR 1500.15

The requirements on post-closeout adjustments and continuing responsibilities, including audit and record retention requirements, at 2 CFR 200.345 remain in effect.

#### ATTACHMENT

Amendment Document

cc: Jasmine Williams EPA Grant Specialist  
Brian Holtzclaw, EPA Project Officer  
Kerstan Ryan, Program Manager

	<b>U.S. ENVIRONMENTAL PROTECTION AGENCY</b> <b>Assistance Amendment</b>	<b>GRANT NUMBER (FAIN):</b> 03D03424	<b>DATE OF AWARD</b>
		<b>MODIFICATION NUMBER:</b> 1	03/28/2025
		<b>PROGRAM CODE:</b> 5B	<b>MAILING DATE</b>
		<b>TYPE OF ACTION</b> No Cost Amendment	03/28/2025
		<b>PAYMENT METHOD:</b> ASAP	<b>ACH#</b> 41247
<b>RECIPIENT TYPE:</b> Not for Profit		<b>Send Payment Request to:</b> Contact EPA RTPFC at: rtpfc-grants@epa.gov	
<b>RECIPIENT:</b> CLEANAIRE NORTH CAROLINA P.O. Box 5311 Charlotte, NC 28299 EIN: 57-0462653		<b>PAYEE:</b> CleanAire North Carolina P.O. Box 5311 Charlotte, NC 28299	
<b>PROJECT MANAGER</b>	<b>EPA PROJECT OFFICER</b>	<b>EPA GRANT SPECIALIST</b>	
Kerstan Ryan P.O. Box 5311 Charlotte, NC 28299 Email: kerstan@cleanairenc.org Phone: 704-307-9528	Brian Holtzclaw 61 Forsyth Street SW Atlanta, GA 30303-8960 Email: Holtzclaw.Brian@epa.gov Phone: 404-562-8684	Jasmine Williams Grants Management Section 61 Forsyth Street SW Atlanta, GA 30303-8960 Email: williams.jasmine@epa.gov Phone: 404-562-9334	
<b>PROJECT TITLE AND EXPLANATION OF CHANGES</b>  Environmental Justice Collaborative Problem-Solving Cooperative Agreement Program  This amendment is to stop work; terminate the agreement; reduce performance period duration; curtail scope of work; and waive certain reporting requirements. Administrative terms and conditions are added.  Per 2 CFR 200.340 and the Termination General Terms and Conditions of this agreement, EPA is terminating this award. Your organization shall immediately stop work and take all reasonable steps to minimize the incurrence of costs otherwise allocable to the assistance agreement. See terms and conditions.			
<b>BUDGET PERIOD</b> 03/01/2024 - 03/14/2025	<b>PROJECT PERIOD</b> 03/01/2024 - 03/14/2025	<b>TOTAL BUDGET PERIOD COST</b> \$ 500,000.00	<b>TOTAL PROJECT PERIOD COST</b> \$ 500,000.00
<b>NOTICE OF AWARD</b>  Based on your Application dated 04/14/2023 including all modifications and amendments, the United States acting by and through the US Environmental Protection Agency (EPA) hereby awards \$ 0.00. EPA agrees to cost-share 100.00% of all approved budget period costs incurred, up to and not exceeding total federal funding of \$ 500,000.00. Recipient's signature is not required on this agreement. The recipient demonstrates its commitment to carry out this award by either: 1) drawing down funds within 21 days after the EPA award or amendment mailing date; or 2) not filing a notice of disagreement with the award terms and conditions within 21 days after the EPA award or amendment mailing date. If the recipient disagrees with the terms and conditions specified in this award, the authorized representative of the recipient must furnish a notice of disagreement to the EPA Award Official within 21 days after the EPA award or amendment mailing date. In case of disagreement, and until the disagreement is resolved, the recipient should not draw down on the funds provided by this award/amendment, and any costs incurred by the recipient are at its own risk. This agreement is subject to applicable EPA regulatory and statutory provisions, all terms and conditions of this agreement and any attachments.			
<b>ISSUING OFFICE (GRANTS MANAGEMENT OFFICE)</b>		<b>AWARD APPROVAL OFFICE</b>	
<b>ORGANIZATION / ADDRESS</b>		<b>ORGANIZATION / ADDRESS</b>	
U.S. EPA, Region 4 61 Forsyth Street Atlanta, GA 30303-8960		U.S. EPA, Region 4, Community Health and Environmental Review Division R4 - Region 4 61 Forsyth Street SW Atlanta, GA 30303-8960	
<b>THE UNITED STATES OF AMERICA BY THE U.S. ENVIRONMENTAL PROTECTION AGENCY</b>			
<b>Digital signature applied by EPA Award Official</b> Shantel Shelmon - Grants Management Officer			<b>DATE</b> 03/28/2025

## EPA Funding Information

FUNDS	FORMER AWARD	THIS ACTION	AMENDED TOTAL
EPA Amount This Action	\$ 500,000	\$ 0	\$ 500,000
EPA In-Kind Amount	\$ 0	\$ 0	\$ 0
Unexpended Prior Year Balance	\$ 0	\$ 0	\$ 0
Other Federal Funds	\$ 0	\$ 0	\$ 0
Recipient Contribution	\$ 0	\$ 0	\$ 0
State Contribution	\$ 0	\$ 0	\$ 0
Local Contribution	\$ 0	\$ 0	\$ 0
Other Contribution	\$ 0	\$ 0	\$ 0
Allowable Project Cost	\$ 500,000	\$ 0	\$ 500,000

Assistance Program	Statutory Authority	Regulatory Authority
66.306 - Environmental Justice Collaborative Problem-Solving Cooperative Agreement Program	Clean Air Act: Sec. 138	2 CFR 200, 2 CFR 1500 and 40 CFR 33

## Budget Summary Page

Table A - Object Class Category (Non-Construction)	Total Approved Allowable Budget Period Cost
1. Personnel	\$ 180,000
2. Fringe Benefits	\$ 20,000
3. Travel	\$ 3,000
4. Equipment	\$ 19,800
5. Supplies	\$ 51,200
6. Contractual	\$ 0
7. Construction	\$ 0
8. Other	\$ 177,000
9. Total Direct Charges	\$ 451,000
10. Indirect Costs: 10.00 % Base de minumus	\$ 49,000
11. Total (Share: Recipient <u>0.00</u> % Federal <u>100.00</u> %)	\$ 500,000
12. Total Approved Assistance Amount	\$ 500,000
13. Program Income	\$ 0
14. Total EPA Amount Awarded This Action	\$ 0
15. Total EPA Amount Awarded To Date	\$ 500,000

## Administrative Conditions

### The Following Administrative Condition Is Added:

#### B. UNILATERAL TERMINATION

1. The Agency is asserting its right under 2 CFR 200.340 and the Termination General Term and Condition of this agreement to unilaterally terminate this award. This amendment serves as required notice under 2 CFR 200.341.

2. Consistent with 2 CFR 200.343 Effect of suspension and termination, costs to the recipient or subrecipient resulting from financial obligations incurred by the recipient or subrecipient after the termination of a Federal award are not allowable. Costs after termination are allowable if:

- a. The costs result from financial obligations which were properly incurred by the recipient or subrecipient before the effective date of suspension or termination, and not in anticipation of it; and
- b. The costs would be allowable if the Federal award was not suspended or expired normally at the end of the period of performance in which the termination takes effect.
- c. The costs are reasonable and necessary termination costs consistent with 2 CFR 200.472.

3. The Federal Financial Reporting (FFR) General Terms and Condition is still in full force and effect. EPA recipients must submit the SF-425 no later than 120 calendar days after the end date of the period of performance of the award.

4. Programmatic Terms and Conditions. Performance reporting is still in full force and effect. The recipient must submit the final performance report no later than 120 calendar days after the period of performance.

In accordance with 2 CFR 200.329, the recipient agrees to submit performance reports that include information on each of the following areas:

- a. A comparison of accomplishments to the outputs/outcomes established in the assistance agreement work plan for the reporting period;
- b. Explanations on why established outputs/outcomes were not met; and
- c. Additional information, analysis, and explanation of cost overruns or high-than-expected-unit costs.

#### 5. Waiver of Reports

The following reports are waived:

- a. Utilization of Disadvantaged Business Enterprises General Terms and Conditions, EPA

Form 5700-52A.

- b. Tangible Personal Property Report, SF-428, General Terms and Conditions.

## 6. Record Retention

Access to Records, 2 CFR 200.337, is still in full force and effect. The termination of this award does not affect the right of EPA to disallow costs and recover funds on the basis of a later audit or other reviews. Information regarding record retention, property disposition in accordance with EPA regulations, and other frequently asked questions can be accessed at <https://www.epa.gov/grants/frequent-questions-about-closeouts>.



## **Programmatic Conditions**